

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

THE REVOCABLE LIVING TRUST OF
JUDITH A. DUNN DATED DECEMBER
16, 1996 JUDITH A. DUNN, TRUSTEE,

Plaintiff,

V.

QUICKEN LOANS, INC., et al.,

Defendants.

1:18-CV-371-RP

AGREED JUDGMENT

Came on to be considered the above-numbered and styled action wherein Plaintiff/Counter-Defendant The Revocable Living Trust of Judith A. Dunn Dated December 16, 1996 Judith A. Dunn, Trustee (“Plaintiff”), and Defendant/Counter-Plaintiff/Cross-Plaintiff CIT Bank, N.A., as assignee for Quicken Loans, Inc. (“CIT Bank” or “Defendant”), and Defendants/Cross-Defendants Edwin A. Smith, III and Ranene C. Smith (the “Smiths”) and together with Plaintiff and CIT Bank, the “Parties”) announced to the Court that they desire to resolve certain matters in controversy between them. The Plaintiff has filed a Motion to Dismiss its claim against Defendants Edwin A. Smith, III and Ranene C. Smith without prejudice. The announcement of settlement resolves all of the causes of action still pending. In light of the agreement of the Parties as expressed in this Agreed Judgment and as shown by their signatures below, it is:

ORDERED, ADJUDGED AND DECREED that CIT Bank, N.A. is the current owner and holder of the *Fixed/Adjustable Rate Note with Payment Options* (the “Note”), executed by Edwin A. Smith, III and Ranene C. Smith on May 9, 2007 in the original principal amount of \$824,575.00 in favor of Quicken Loans, Inc. and beneficiary of that certain *Deed of Trust* (the “Security Instrument” and together with the Note, the “Loan”), recorded in the Official Public

Records of Travis County, Texas on June 8, 2007 as Instrument No. 2007104829, as evidenced by that certain Texas Assignment of Deed of Trust recorded on February 20, 2018 as Instrument No. 2018024590 in the Official Public Records of Travis County Texas. It is further

ORDERED, ADJUDGED AND DECREED that the Deed of Trust represents, among other things, a lien interest that is superior to that certain Deed of Trust that Plaintiff recorded on April 26, 2012 in the Official Public Records of Travis County as Instrument No. 2012065218 ("Plaintiff's Lien Interest") pursuant to an agreed judgment in an Adversary Proceeding between Plaintiff and the Smiths, filed in Case No. 11-01010 in the United States Bankruptcy Court for the Western District of Texas, Austin Division. It is further

ORDERED, ADJUDGED AND DECREED that CIT Bank, as the current owner of the Note and mortgagee of the Security Instrument, holds a first lien security interest on that certain real property located at 6021 Circle J Loop, Marble Falls, Texas 78654, and more particularly described as:

LOT TWO (2), CIRCLE J RANCH, LAKESIDE ADDITION, A
SUBDNISION IN TRAVIS COUNTY, TEXAS,
ACCORDING TO THE MAP OR PLAT OF RECORD IN
VOLUME 4, PAGE
240, PLAT RECORDS OF TRAVIS COUNTY, TEXAS

(the "Property"). It is further

ORDERED, ADJUDGED AND DECREED that an event of default has occurred on the Note. It is further

ORDERED, ADJUDGED AND DECREED that the following are secured by the Security Instrument on the Property: the outstanding balance of the Note; prejudgment interest; post-judgment interest at the Note interest rate of 6.250%; and costs of court. It is further

ORDERED, ADJUDGED AND DECREED that CIT Bank or its successors or assigns, may proceed with foreclosure on the Property as provided in the Security Instrument and

Section 51.002 of the Texas Property Code. It is further

ORDERED, ADJUDGED AND DECREED that all foreclosure notices to the Smiths may be mailed to them to Jay P. Lea, Naman, Howell, Smith & Lee, PLLC, 8310 N. Capital of Texas Hwy., Suite 490, Austin, Texas 78731. It is further

ORDERED, ADJUDGED AND DECREED that all costs and attorney fees are taxed against the party incurring same, except that CIT Bank may charge its attorney fees and costs pursuant to the terms of the Loan. It is further

ORDERED, ADJUDGED AND DECREED that the claims, if any, of the Revocable Living Trust of Judith A. Dunn Dated December 16, 1996 Judith A. Dunn, Trustee ("Plaintiff") against Edwin A. Smith, III and Ranene C. Smith are dismissed without prejudice. It is further

ORDERED, ADJUDGED AND DECREED that, except as provided in this Agreed Judgment, the Parties take nothing on their respective claims against each other. It is further

ORDERED, ADJUDGED AND DECREED that Plaintiffs claims against Wendy Alexander are dismissed with prejudice. It is further

ORDERED, ADJUDGED AND DECREED that, as provided in Federal Rule of Civil Procedure 62, execution and performance of this Judgment may proceed immediately and is not stayed under Rule 62(a). It is further

ORDERED, ADJUDGED AND DECREED that this judgment constitutes a final judgment that fully and finally disposes of all Parties and all claims and may be appealed.

SIGNED on September 21, 2020.



ROBERT PITMAN
UNITED STATES DISTRICT JUDGE

AGREED TO:

By: /s/ Mark D. Cronenwett
MARK D. CRONENWETT
Texas Bar No. 00787303
mcronenwett@mwzmlaw.com

MACKIE WOLF ZIENTZ & MANN, P.C.
14160 N. Dallas Parkway, Suite 900
Dallas, Texas
75254
Telephone: 214-635-2650
Facsimile: 214-635-2686
*Attorneys for CIT Bank, N.A., successor to
Quicken Loans,
Inc.*

And by: /s/ Charley L. Smith by Mark D. Cronenwett
with permission

CHARLEY L. SMITH
Texas Bar No.
18552800
charleysmith@live.com
m

LAW OFFICE OF CHARLEY L. SMITH
P.O. Box 865
Bellville, Texas 77418
Telephone: 979.865.5905
Attorney for Plaintiff

And by: /s/ Curtis J. Kurhajec by Mark
D. Cronenwett with permission

CURTIS J. KURHAJEC
Texas Bar No. 11767200
ckurhajec@namanhowell.com
om

NAMAN HOWELL SMITH & LEE, PLLC
8310 N. Capital of Texas Highway, Suite 490
Austin, TX 78731
Phone: 512.479.2459
Attorneys for the Smiths